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C O N F I D E N T I A L KINSHASA 000061

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SUBJECT: VERDICT IN LAURENT KABILA ASSASSINATION TRIAL

REF: KINSHASA 793

CLASSIFIED BY: POLOFF LAURA ENGELBRECHT, REASONS 1.5 B & D

¶1. (U) ON DECEMBER 7, JUDGES FOR THE HIGHEST DRC MILITARY COURT HANDED DOWN THEIR VERDICT IN TRIAL OF PERSONS ACCUSED IN CONNECTION WITH THE ASSASSINATION OF FORMER PRESIDENT LAURENT KABILA. OF THE 130 PERSONS ON TRIAL:

- 30 WERE GIVEN THE DEATH PENALTY (SIX OF WHOM FLED THE COUNTRY IN 2000 AND WERE SENTENCED IN ABSENTIA),
- 29 WERE GIVEN LIFE IMPRISONMENT,
- 45 WERE ACQUITTED,
- 24 RECEIVED PRISON SENTENCES BETWEEN 6 MONTHS AND 20 YEARS,
- ONE WAS ACQUITTED OF TREASON BUT WILL BE RECHARGED WITH THEFT (IN CIVILIAN COURTS), AND
- THE CAUSE OF DEATH OF ASSASSIN RACHIDI MIZELE -- WHO WAS IN TURN KILLED ON THE SPOT BY EDDY KAPEND (SEE PARA 3 BELOW)
- WAS RULED "EXTINCTION BY PUBLIC ACTION."

¶2. (U) LAURENT KABILA'S ECONOMIC ADVISOR M. MOTA, WHO WAS THE ONLY DIRECT WITNESS TO THE ASSASSINATION AND WHO WAS ARRESTED DURING THE TRIAL FOR GIVING CONTRADICTORY TESTIMONY, REMAINS UNDER CONTINUING INVESTIGATION.

¶3. (U) AMONG THOSE CONDEMNED TO DEATH ARE COLONEL EDDY KAPEND, LAURENT KABILA'S AIDE-DE-CAMP; GENERAL YAV NAWAJ, FORMER GENERAL IN CHARGE OF ARMY FORCES IN KINSHASA; GEORGES LETA, FORMER HEAD OF THE NATIONAL INTELLIGENCE AGENCY; AND 6 OTHER PRIMARY SUSPECTS WHO FLED THE COUNTRY IN 2000 AND WERE TRIED AND SENTENCED IN ABSENTIA. AMONG THOSE ACQUITTED WERE THE WIVES OF SUSPECTS WHO HAD FLED THE COUNTRY; THEY HAD BEEN CHARGED WITH FACILITATING THEIR HUSBANDS' ESCAPE FROM PRISON. (SEE REF A FOR A SUMMARY OF KEY PLAYERS IN THE TRIAL.)

¶4. (C) WHILE THE VERDICT ADDRESSED THE SPECIFIC CHARGES AGAINST THE DEFENDANTS, IT DID NOT GIVE A "FINAL" VERSION OF EVENTS IN THE ASSASSINATION. THE COURT ANNOUNCED THAT, DESPITE THE HANDING DOWN OF 130 VERDICTS, AN OFFICIAL INVESTIGATION WOULD CONTINUE TO "CLARIFY AREAS THAT REMAIN SHADOWED" IN THE ASSASSINATION. IN THE VERDICT, THERE WAS NO MENTION OF THE UNITED STATES OR ANY OTHER WESTERN COUNTRY AS BEING COMPLICIT IN THE ASSASSINATION, AN ISSUE OF SOME CONCERN AT THE START OF THE TRIAL.

¶5. (U) THE MILITARY COURT HAS NO APPEALS PROCESS; HOWEVER, BEFORE THE DEATH SENTENCES CAN BE CARRIED OUT, PRESIDENT KABILA MUST GIVE PERSONAL APPROVAL. ALL OF THE LOCAL PAPERS -- INCLUDING PRO-OPPOSITION TITLES -- COVERED THE VERDICT EXTENSIVELY, AND MOST EDITORIALS APPROVED OF THE RESULTS, CALLING IT "BALANCED" AND EVIDENCE THAT THE COURT WORK INDEPENDENTLY (SINCE THE PROSECUTOR CALLED FOR 115 DEATH SENTENCES AND ONLY 30 WERE HANDED OUT). HARDLINE PRO-GOVERNMENT 'L'AVENIR' WAS CRITICAL OF THE VERDICT FOR FAILING TO ADDRESS WHAT IT TERMED THE "INTERNATIONAL PLOT" THAT LED TO LAURENT KABILA'S DEATH. THIS SAME EDITORIAL PREDICTED THAT INTERNATIONAL NGOS WILL LIKELY ASK FOR CLEMENCY FOR THOSE CONDEMNED TO DEATH, SHOWING THAT THEY DON'T UNDERSTAND THAT KILLING A HEAD OF STATE IS SUCH A SERIOUS CRIME THAT IT DEMANDS DEATH. SO FAR, INTERNATIONAL NGOS SUCH AS ICRC AND HUMAN RIGHTS LAW GROUP HAVE NOT MADE STATEMENTS ON THE TRIAL; THEY ARE EXAMINING THE VERDICT TO ASSESS THE APPROPRIATENESS OF THE SENTENCES IN EACH CATEGORY AND ARE LIKELY TO URGE PRESIDENT KABILA TO SUSPEND THE DEATH SENTENCES.

16. (C) COMMENT: THE TRIAL STAGE IN THE DRAMA OF THE LAURENT KABILA ASSASSINATION HAS BEEN CONCLUDED, ALTHOUGH MANY QUESTIONS REMAIN AND THE COURT HAS ORDERED A CONTINUED INVESTIGATION INTO KABILA'S DEATH. ALL EYES ARE NOW ON JOSEPH KABILA CONCERNING THE DEATH PENALTIES -- WILL HE SUSPEND THEM OR ALLOW THE EXECUTIONS TO BE CARRIED OUT? INTERNATIONAL NGOS AND THE DIPLOMATIC COMMUNITY IN COUNTRIES OPPOSED TO THE DEATH PENALTY WILL UNDOUBTEDLY PLACE PRESSURE ON KABILA TO SUSPEND THE SENTENCES. HOWEVER, THERE IS AT LEAST SOME POPULAR PRESSURE AMONG THE CONGOLESE TO CARRY THEM OUT, PARTLY TO PROVE THAT HE IS "TOUGH" AND TAKES THE ASSASSINATION OF HIS FATHER SERIOUSLY. SINCE INHERITING THE PRESIDENCY, JOSEPH KABILA HAS SUSPENDED ALL DEATH SENTENCES PRONOUNCED BY THE MILITARY OR CIVILIAN COURTS. HE HAS GIVEN NO INDICATION HOW HE WILL PROCEED WITH THIS POLITICAL HOT POTATO INVOLVING THOSE FOUND GUILTY IN HIS OWN FATHER'S DEATH.

HOOKS